

## Office of Personnel Management

## § 838.236

- (1) The court order—
  - (i) Expressly directs OPM to adjust for payment made under the prior court order; and
  - (ii) Determines the total amount of the adjustment or the length of time over which OPM will make the adjustment; and
  - (iii) Provides a specific monthly amount of the adjustment or a formula to compute the amount of the monthly adjustment; and
- (2) Annuity continues to be available from which to make the adjustment.

### PAYMENT PROCEDURES

#### § 838.231 Commencing date of payments.

- (a) A court order acceptable for processing is effective against employee annuity accruing beginning the first day of the second month after OPM receives the court order.
- (b)(1) OPM will not begin payments to the former spouse until OPM receives all the documentation required by § 838.221 (b) and (c).
- (2) If payments are delayed under paragraph (b)(1) of this section, after OPM receives all required documentation, it will authorize payment of the annuity that has accrued since the date determined under paragraph (a) of this section but the payment of which was delayed under paragraph (b)(1) of this section.

#### § 838.232 Suspension of payments.

- (a) Payments from employee annuities under this part will be discontinued whenever the employee annuity payments are suspended or terminated. If employee annuity payments to the retiree are restored, payments to the former spouse will also resume subject to the terms of any court order acceptable for processing in effect at that time.
- (b) Paragraph (a) of this section will not be applied to permit a retiree to deprive a former spouse of payment by causing suspension of payment of employee annuity.

#### § 838.233 Termination of payments.

A former spouse portion of an employee annuity stops accruing at the earliest of—

- (a) The date on which the terms of the court order require termination;
- (b)(1) The last day of the first month before OPM receives a court order invalidating, vacating, or setting aside the court order submitted by the former spouse if OPM receives the latest court order no later than 20 days before the end of the month; or
- (2) The last day of the month in which OPM receives a court order invalidating, vacating, or setting aside the court order submitted by the former spouse if OPM receives the latest court order than 20 days before the end of the month; or
- (c) The last day of the first month after OPM receives an amended court order;
- (d) The last day of the first month before the death of the retiree; or
- (e) Except as provided in § 838.237, the date on which the former spouse dies.

#### § 838.234 Collection of arrearages.

Specific instructions are required before OPM may pay any arrearage. Except as provided in § 838.225(b), OPM will not increase a former spouse's share of employee annuity to satisfy an arrearage due the former spouse. However, under § 838.225, OPM will prospectively honor the terms of an amended court order that either increases or decreases the court order's entitlement.

#### § 838.235 Payment of lump-sum awards.

If a court order acceptable for processing awards a former spouse a lump-sum amount from the employee annuity and does not state the monthly rate at which OPM should pay the lump-sum, OPM will pay the former spouse equal monthly installments at 50 percent of the gross annuity (subject to the limitations under § 838.211) at the time of retirement or the date of the order, whichever comes later, until the lump-sum amount is paid.

#### § 838.236 Court orders barring payment of annuities.

- (a) State courts lack authority to prevent OPM from paying employee annuities as required by section 8345(a) or section 8463 of title 5, United States Code. OPM will not honor court orders directing that OPM delay or otherwise